

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of the Petition of Dalia Genger, as  
Trustee of the Orly Genger 1993 Trust, Created by  
Trust Agreement Dated December 13, 1993 between  
ARIE GENDER, as Grantor, and LAWRENCE M.  
SMALL and SASH A. SPENCER, as Trustees, to  
Turnover Property to the Orly Genger 1993 Trust.

File No.: 2008-0017/E

Surrogate Nora S. Anderson

Dalia Genger, Trustee of the Orly Genger 1993 Trust,

Petitioner,

-against-

Orly Genger, et al.,

Respondents.

**AFFIRMATION IN SUPPORT OF RESPONDENTS**  
**ARNOLD BROSER AND DAVID BROSER MOTION TO DISMISS**  
**DALIA GENDER'S 2016 PETITION**

Mitchell D. Goldberg, an attorney duly admitted to practice law in the State of New York, hereby affirms under penalty of perjury pursuant to CPLR 2106 as follows:

1. I am a member of the bar of the State of New York and of counsel to The Freyberg Law Group, counsel for third-party defendant Arnold Broser and David Broser (collectively, the "Brosers") in the above titled action (the "Action").

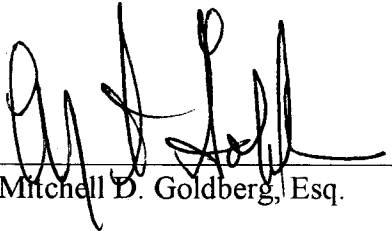
2. The Brosers join in the Motion To Dismiss served on behalf of Respondent Orly Genger pursuant to SCPA Section 102 and CPLR 3211(a)(4), (5), (7) and (8) to dismiss with prejudice the Petition filed by Dalia Genger in June, 2016 (referred to by Orly Genger as the "New Action").

3. Like Orly Genger, the Brosers make a limited appearance in the New Action pursuant to CPLR 320(b). The Brosers were never served with the Petition in the New Action,

and, as such, no proof of service upon the Brosers has been filed with this Court. While an attempt was made to serve the Brosers with the Citation issued by this Court on December 21, 2017 such attempted service did not include the Petition in the New Action.

4. For the reasons set forth in the Orly Genger Motion to Dismiss, the Brosers seek dismissal of the New Action as against them.

I affirm under penalty of perjury that the foregoing is true and correct. Executed on February 5, 2018.



Mitchell D. Goldberg, Esq.